IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No2151 of 2007
Date of decision 20 .8 .2007

Paramjit Kaur .. petitioner

Versus

Union of India and others .. Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

PRESENT: Mr.R.K.Bajaj, Advocate for the petitioner
Ms. Manisha Gandhi, Advocate for the respondents

M.M.Kumar, J.

This petition filed under Article 226 of the Constitution prays for quashing attachment order dated 2.8.2005 (Annexure P.4) passed by respondent no.2 concerning Saving Fund Account No.25854 belonging to the petitioner maintained by her with Canara Bank, Football Chowk, Jalandhar City on the allegation that the provisions of Section 37 of the Foreign Exchange Management Act, 1999 read with Section 132(3) and 133 (c) of the Income Tax Act,1961 were violated. The Directorate of Enforcement through its Assistant Director has inter-alia issued directions to the Canara Bank that no withdrawal should be allowed from the account of the petitioner. According to the averments made in the petition the petitioner is duly assessed to income tax for the last 15 years and also derives income from Banquet Hall known as Gujrat Palace, GT Road, Jalandhar City alongwith rental income from commercial building known as Gujrat Complex, Rainak Bazar, Jalandhar City. She had purchased a share in a plot of land situated at GT Road, Jalandhar City in the year 1992 for a sum of Rs. 5,00,000/-. The payment was made by account payee cheque No.

3485208 dated 9.5.1992 from her Saving fund Account No. 5353 maintained with Canara Bank, Jalandhar City. The said purchase of landed property has been duly disclosed in her return of income for the assessment year 1993-94 and the same was sold by her in the year 2005. The entire sale consideration of Rs.71,00,000/- was deposited in her Saving Fund Account No. 25854 maintained with Canara Bank, Foot Ball chowk, Jalandhar. The petitioner has alleged that the account has been illegally attached vide order dated 2.8.2005 (Annexure P.4) merely on the basis of some suspicion. The petitioner has also placed reliance on a notification dated 1.6.2000 issued by respondent no.1.

On 9.2.2007 this Court had issued notice to the respondents and thereafter written statement by the respondents was filed. On 5.7.2007, we allowed some time to the counsel for the respondent to find out as to whether any money in Saving Fund account belonging to the petitioner has been credited from any unidentifiable source which may be considered as Hawala transaction. On 12.7.2007 we directed the respondents to file an appropriate affidavit giving details showing that any amount in the Saving Fund account belonging to the petitioner was ever credited to the petitioner from her husband or from any unidentifiable source. Accordingly, the affidavit was filed wherein it was asserted that the saving bank account of the petitioner was subject matter of investigation which was being carried out by Directorate of Enforcement. It was asserted that the petitioner was suspected to be holding funds owned by the petitioner and her associates in different banks. On the other hand, the petitioner furnished copies of the sale deed explaining the deposits in her bank account.

At the hearing Ms. Manisha Gandhi, on instructions received

from Mr. R.D.Gandhi, Assistant Director, Directorate of Enforcement, Jalandhar, who is present in the Court, has stated that the account belonging to the petitioner shall be released to her within one week from today.

In view of the above, we dispose of the writ petition with a direction to the respondents to release her bank accounts on or before 27.8.2007. The petitioner is at liberty to file appropriate application to claim interest from the date of attachment i.e. 2.8.2005 till the release of her account. We further find that there was no justifiable reason for the respondents to proceed against the petitioner without any credible material or information. It is made clear that while releasing Saving Fund Account No.25854 belonging to the petitioner which is maintained with Canara Bank, Football Chowk, Jalandhar we should not be understood to have expressed any opinion with regard to the account belonging to Shri Kuldeep Singh, who is husband of the petitioner. The petitioner is entitled to her costs which are determined at Rs.10,000/-. The costs shall be initially paid by respondent no.4 and the same shall be recovered from the officer/ official who may be found responsible after holding enquiry. The enquiry shall be completed within a period of three months from the date of receipt of copy of this order.

(M.M.Kumar)
Judge

(Ajay Kumar Mittal)
Judge

20.8.2007
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